

UNITED STATES DISTRICT  
SOUTHERN DISTRICT OF NEW YORK

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TRANSPORTES NAVIEROS Y  
TERRESTRES, S.A. DE C.V.,

Plaintiff,

07 CV 3076 (LAP)

-against-

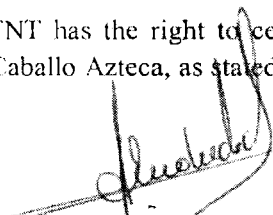
FAIRMOUNT HEAVY TRANSPORT N.V.,

Defendant.

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DECLARATION OF HERMILO ESCOBEDO OBRADOR

1. My name is Hermilo Escobedo Obrador; I was born in Ciudad del Carmen, Campeche, Mexico, on February 23<sup>rd</sup> 1956. I have a degree in Mechanical Engineering and have been the legal representative of the Company Transportes Navieros y Terrestres, S.A. de C.V. (TNT), with address in Carretera Paraiso, Puerto Ceiba, kilómetro 1, s/n, col. Quintin Arauz, Municipio Paraiso, Villahermosa, Tabasco, C.P. 86600, México, since May 19<sup>th</sup>, 1999.
2. This declaration is submitted in support of Plaintiff Transportes Navieros y Terrestres, S.A. de C.V., in Fairmount Heavy Transport N.V.'s Motion to Vacate the Attachment.
3. TNT learned of the arrest of its vessel Caballo Azteca but understood that Oceanografía S.A. de C.V. (OSA) was working to have the arrested vessel released and had hired a lawyer in the Netherlands to work on the matter. TNT thought that was correct because the underlined dispute that gave rise to the arrest was OSA dispute not TNT dispute.
4. TNT is legal owner of the vessel Caballo Azteca, as stated in the acquisition contract celebrated on July 1<sup>st</sup> 2002, and registered in the National Public Maritime Register on October 12<sup>th</sup> 2005, under the maritime folio number 1721, under the branch: Vessel, entry number 8211.
5. TNT has the right to celebrate whichever contract it desires to in relation to the vessel Caballo Azteca, as stated by the Act of Navigation and Maritime Commerce, in its Title V,



on the Contracts of Vessel Utilization, Chapter I, General Dispositions, since TNT does not owe anything to the company Fairmount Heavy Transport N.V., nor to anyone else in its group, in addition to the dispositions of the Commerce Code.

6. TNT considered using the vessel Caballo Azteca and because of the way the vessel Caballo Azteca had been arrested by the company Fairmount Heavy Transport, N.V., TNT proceeded to prepare all the documentation that according to the International Laws on the subject is needed for it to be legally recognized abroad; such as its proper translation, and certification. In this way and taking into consideration what is stated by the Act of Navigation and Maritime Commerce in its article 265, which provides a 90 days term to answer before any foreign authority. This term when applied by analogy results in the time being avowed by the law, and not in the way Fairmount Heavy Transport N.V. is trying to make believe, therefore acting with bad faith before a judge.
7. TNT, as ordered by the laws in force and effect in Mexico, did everything in accordance to the law, since in Mexico, it is not permitted to take Justice into our own hands. In Mexico it is necessary to appear before a competent Court and to comply with the relevant formalities, as stated by articles 14, 16, and 17 of the Political Constitution of the United States of Mexico.
8. TNT, is a Mexican business association, legally constituted in accordance with the Mexican Laws, as stated by article 8 of the General Act of Business Associations. It is important to reaffirm that TNT and Oceanografia, S.A. de C.V.( OSA) are two completely separate and distinct companies, with different ownership, different board of directors, different officers, different management, different offices, and different nature of the work. Thus, both are not related to one another in any way.

TNT's corporate purpose is the acquisition, selling and chartering contracts of all types of vessels; national and international maritime transportation; as well as, dredging, draught and similar operations, with address as mentioned above in Carretera Paraíso, Puerto Ceiba, kilómetro 1, s/n, col. Quintin Arauz, Municipio Paraíso, Villahermosa, Tabasco, C.P. 86600, México. TNT's shareholders are Miguel Angel Zenteno Woolrich and Arturo Barradas Lozada, who is also the sole administrator of the company. To my knowledge, none of these people are shareholders or board members of Oceanografia S.A. de C.V.

9. Fairmount Heavy Transport N.V., cannot allege that while causing the illegal arrest of the vessel Caballo Azteca, now tries to act as a victim when before the arrest of the vessel. it should had complied with the Mexican laws, instead of talking advantage of foreign legislations and confusing the judges who act in good faith. Which is why the general principle of law says that: ***the judge has to count with the true facts, in order for him to be able to apply the law.***
10. When I signed the charter contract in December 12<sup>th</sup>, 2005 with the company Con-Dive LLC, in representation of TNT, I expected that we would be able to deliver the vessel under

